

REMARKS

Applicants have carefully examined the Office Action of May 28, 2009, in which claims 1-40 are pending and have been rejected. Favorable further examination is requested in light of the above amendments and following remarks.

Claim Amendments

Claims 1, 6, 12, 22 and 32 have been amended. Support for these amendments may be found, for example, in paragraphs 85-91 of the specification as filed. No new matter has been introduced.

Specification

The Specification was objected to as not containing an abstract of the disclosure. The Appendix to this response includes an Abstract on a separate sheet in accordance with 37 CFR 1.52(b)(4) as presented in the international application. However, Applicant has also amended the Abstract herein. No new matter has been introduced.

Claim Rejections under 35 U.S.C. §101

Claims 1-20 were rejected as directed toward non-statutory subject matter. Without commenting on the merits of the rejection and with a view toward furthering prosecutions, Applicant has amended independent claims 1 and 12 to recite "one or more computer readable mediums, comprising." As the various means recited in the claims are not otherwise non-functional descriptive matter such as abstract ideas, it is believed that with these amendments to claims 1 and 12, claims 1-20 clearly fall within the statutory subject matter of 35 U.S.C. §101, and accordingly, Applicant requests the withdrawal of this rejection.

Claim Rejections under 35 U.S.C. §102

Claims 1-40 were rejected under 35 U.S.C. §102(e) as being clearly anticipated by Matsuda, U.S. Patent No. 7,086,005. Applicant respectfully traverses the rejection.

Matsuda pertains to a virtual reality environment where users manipulate avatars to interact in the virtual reality environment. The avatars may be made to walk around and the users of two avatars in proximity can see each other's avatar and interact. Matsuda describes

virtual reality environments where users whose avatars are not in proximity, or where one of the users is not “logged in” to the virtual reality environment, can communicate with each other by the use of virtual cell phones within the virtual reality environment. Thus, as Matsuda describes it, the users of two avatars not in proximity in the virtual reality environment can communicate through virtual cell phones, or a user making a call from the real world can communicate with another user by making a call to a virtual cell phone of an avatar of a user who is logged-in into the virtual reality environment, and vice versa. Significantly, avatars, as used in Matsuda, are “alter egos” of the users, or, in other words, puppets that the users manipulate to interact through the virtual reality environment. As described by Matsuda, “The avatar is a type of application object generated by an application program. Information (for example, current position, attire, name, and gender) about each avatar in a shared virtual space is shared among the log-in users.” Column 4, lines 59-63.

In contrast, the term “avatar” in the present invention means something completely different. “The word ‘avatar’ as used throughout this specification is a reference to an image of some description (for example, a digital photograph or animated icon), which, when viewed conveys some information about an activity that a person (that is, a user of the called mobile handset 7) is engaged in. For instance, an avatar of a surfboard or book would respectively indicate that the user of the called mobile telephone handset 7 is out surfing or reading.” Para. 85. Thus, an “avatar” in the present application is used to convey some information about a real person. In contrast, the “avatar” of Matsuda conveys only information about the avatar, such as the avatar’s position, attire, name, gender, and so forth. When one sees an avatar in Matsuda’s virtual realities, one knows nothing about the person or persons who own or are currently manipulating the avatar.

In the present invention, when a user makes a phone call (in the real world) to another’s phone, the user receives on his phone the preselected avatar of the person the user is calling. This avatar may convey to the caller information about what the person he is calling is doing. Thus the caller can get some information about the person being called with no further interaction on the part of the person being called. The person being called may select new avatars, as desired, from time to time to indicate new activities or locations.

It can thus be seen that the present application is directed to a fundamentally different invention than that described by Matsuda, and, significantly, that the term "avatar" means something completely different in Matsuda than in the present application.

Turning now to the claims, claim 1 recites "identifying means operable to identify an avatar by using the attribute, wherein the avatar is such that it conveys to a viewer thereof information about a person; and communicating means operable to communicate the avatar in a virtual environment to a second communication device. Matsuda does not describe "identifying means" as claimed because Matsuda does not disclose an avatar as claimed. As the avatars of Matsuda do not convey information about people, but merely attributes of the avatar, they are not avatars as described in the present application. No information about a person is conveyed by the system described in Matsuda. Nor does Matsuda "communicate the avatar in a virtual environment to a second communication device." Matsuda merely describes standard telephonic operations between users, either through one or two avatars. If one makes a call through an avatar to a real world number, the avatar is not communicated to the communication device in the real world; rather, a telephonic link is established through the avatar to the second communication device.

It can thus be seen that Matsuda does not anticipate each and every element of claim 1. Applicant therefore submits that claim 1 is in condition for allowance. As claims 2-11 depend from claim 1 and contain additional elements, Applicant submits that these claims are also in condition for allowance.

As amended independent claim 12 recites "a communicating means operable to communicate an avatar in the virtual environment to a mobile telephone handset of the first person subsequent to the first person accessing the environment, the avatar being such that it can convey to the first person information about a second person," Applicant submits that this claim is in condition for allowance for at least the reasons discussed above with respect to claim 1. As claims 13-20 depend from claim 12 and contain additional elements, Applicant submits that these claims are likewise in condition for allowance.

Claim 21 recites "identifying an avatar by using the attribute, wherein the avatar is such that it conveys to a viewer thereof information about a person." For the reasons discussed above, namely that Matsuda does not teach avatars that convey information about a person, Applicant submits that this claim is also in condition for allowance. As claims 22-31 depend from claim 21

and contain additional elements, Applicant submits that these claims are likewise in condition for allowance.

Claim 32 recites "communicating an avatar in the virtual environment to the first person subsequent to the first person accessing the environment, the avatar being such that it can convey to the first person information about an activity that a second person is engaged in." As discussed above, the avatars described by Matsuda do not convey information about a person. Still less do they convey information about an activity that a person is engaged in. For at least this reason, Applicant submits that claim 32 is in condition for allowance. As claims 33-40 depend from claim 32 and contain additional information, Applicant submits that these claims are likewise in condition for allowance.

Conclusion

Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Christine Satchell

By her Attorney,

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Attachment: Abstract on a separate page